

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**DOUG COPP and AMERICAN RESCUE TEAM
INTERNATIONAL,**

Plaintiffs,

v.

Case No. 1:07-CV-00651 JEC/ACT

**THE JOURNAL PUBLISHING COMPANY, INC.,
ABQJOURNAL.COM, INC.,
ALBUQUERQUE PUBLISHING COMPANY,
THOMPSON H. LANG, JR.,
LESLIE LINTHICUM, JOHN GRACE, MIKE
MILLER and JOHN & JANE DOES 1-100,**

Defendants.

**MEMORANDUM OPINION AND ORDER DENYING
OPPOSED MOTION TO ALTER OR AMEND JUDGMENT**

THIS MATTER comes before the Court on Plaintiffs' *Opposed Motion to Alter or Amend Final Judgment* (Doc. 48), filed March 16, 2009 ("Motion"). The Court has considered Plaintiffs' Motion, as well as *The Journal Defendants' and APC's Response to Plaintiffs' Motion to Alter or Amend the Judgment* (Doc. 50) and *Defendants Grace and Miller's Request to Join In and Adopt the Journal Defendants' and APC's Response to Plaintiffs' Motion to Alter or Amend the Judgment* (Doc. 49), each of which was filed March 30, 2009, and finds that Plaintiffs' Motion is not well-taken and should be denied.

Plaintiffs' Motion arises from a difference between the Court's March 4, 2009 Memorandum Opinion and Order granting the Defendants' motions to dismiss (Doc. 46), which states that "Plaintiffs' First Amended Complaint shall be dismissed without prejudice," and the Court's March 5, 2009 Final Judgment (Doc. 47), which states that "[a]ll of Plaintiffs' claims are therefore dismissed with prejudice."

Plaintiffs move to alter or amend the judgment pursuant to Fed. R. Civ. P. 60(a), which permits corrections of clerical mistakes, and Rule 60(b), which allows the Court to relieve a party from a final judgment for reason of mistake, newly discovered evidence, fraud, a judgment that is void or otherwise satisfied, or for “any other reason that justifies relief.” They contend that the Court should correct its clerical mistake by changing the “with prejudice” dismissal in the Final Judgment to a “without prejudice” dismissal. *Motion* at 2.

Defendants oppose the Motion, arguing that “any typographical error is contained in the concluding paragraph of the Memorandum Opinion and not in the Judgment.” *Resp.* at 1.

Because Defendants are correct, and the Court intended dismissal of Plaintiffs’ claims to be with prejudice, the Court will deny Plaintiffs’ Motion.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that *Defendants Grace and Miller’s Request to Join In and Adopt the Journal Defendants’ and APC’s Response to Plaintiffs’ Motion to Alter or Amend the Judgment* (Doc. 49) is granted.

IT IS FURTHER ORDERED that Plaintiffs’ *Opposed Motion to Alter or Amend Final Judgment* (Doc. 48), filed March 16, 2009, is denied.

DATED April 2, 2009.

s/John Edwards Conway

SENIOR UNITED STATES DISTRICT JUDGE

Counsel for Plaintiffs:

Timothy L. Butler, Esq.
Santa Fe, NM

Counsel for Defendants:

Matthew R. Hoyt, Esq.
Albuquerque, NM

Charles Nicholas Fisher, Esq.
Albuquerque, NM